THE HON'BLE SRI JUSTICE GODA RAGHURAM

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W.P.NO.2834 OF 2006

Between:

B.Vijaya Lakshmi wife of B.Venkateswara Kumar

…Petitioner

vs.

P.N.B. Housing Finance Limited, Hyderabad.

…Respondent.

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ORAL ORDER

The petitioner obtained a loan of Rs.4 lakhs from the respondent-Bank and pledged the house property bearing M.No.507-176, Plot No.474, B.N.Reddy Nagar, Survey No.201/1&2 Sahebnagar Kalan Village, L.B.Nagar Municipality, Hayathnagar Mandal, Ranga Reddy District as security for the loan. After paying some installments the petitioner admittedly defaulted. The petitioner contends that the respondent-Bank has sealed the premises in her

absence. The petitioner sought a one time settlement and the matter is under consideration.

The petitioner's complaint is that without following procedure under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002(for short "the Act"), the respondent-Bank has proceeded to enforce the security-interest contrary to the provisions of the Sec.13(2) of the Act. It would appear that the house property was also auctioned for Rs.7,50,000/- though the petitioner does not choose to state when the auction was held, when it came to her notice and why she did not take adequate steps in time either before or immediately subsequent to the auction.

As the petitioner apprehends that a sale deed would be executed in favour of the third party-purchaser by the respondent pursuant to the auction said to have been conducted of her house property, the petitioner approached this Court assailing the proceedings said to have been initiated contrary to the provisions of the Sec.13 of the Act.

Any person aggrieved by any of the measures referred to in Sub-section (4) of Section 13 of the Act taken by the secured creditor or his authorized officer under Chapter-III of the Act is entitled to prefer an appeal to the Debt Recovery Tribunal having jurisdiction in the matter, within 45 days from the date such measures have been taken. The right to prefer such appeal includes a claim that the proceedings under Sec.13(4) have been initiated or taken without following the opportunity provisions of Sec.13(2). In the circumstances the petitioner has, on the grievance urged in this writ petition regarding the conduct of the respondent in not following the provision of Sec.13(2) of the Act, an appellate remedy before the Debt Recovery Tribunal under Section 17 of the Act.

For the aforesaid reasons as there is an equally efficacious alternative remedy available to the petitioner and in respect of a special enactment which also prescribes an adjudicatory mechanism therein, this Court is not inclined to exercise jurisdiction under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed with liberty preserved in the petitioner to pursue the available alternative remedies under the provisions of the Act. There shall be no order as to costs.

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GODA RAGHURAM,J

24th FEBRUARY 2006

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